

SENATE BILL No. 428

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-13; IC 33-31.5.

Synopsis: Consolidation of probation departments. Consolidates multiple probation departments in counties having more than one probation department into one probation department under the supervision of a joint probation committee consisting of all judges having the authority to impose probation. Specifies that the joint probation committee has the authority to appoint probation officers, assign probation officers to particular courts, and remove probation officers. Provides that a probation officer assigned to a particular court by the joint committee is under the supervision of and directly responsible to the judge of that court. Specifies that, unless the joint probation committee determines otherwise, a probation officer who comes under the authority of a joint committee in accordance with this article retains the powers and duties that the probation officer possessed before the officer came under the authority of the joint committee. Requires courts in a county with more than one court having the authority to impose probation to submit a transition plan to the judicial conference for approval, and authorizes the judicial conference to approve the plan, modify the plan, or deny the plan. Makes other changes and conforming amendments.

Effective: July 1, 2009.

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January 12, 2009, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 428

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 11-13-1-0.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 0.5. (a) As used in this chapter, "appointing court"**
4 **means a court or division of a court authorized to impose**
5 **probation in a county in which only one (1) court is authorized to**
6 **impose probation.**
7 **(b) As used in this chapter, "joint committee" means a joint**
8 **probation committee established by IC 33-31.5-3-1.**
9 SECTION 2. IC 11-13-1-1 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) ~~This~~
11 ~~subsection does not apply to a county in which more than one (1)~~
12 ~~court is authorized to impose probation. An appointing court or~~
13 ~~division of a court authorized to impose probation shall appoint one (1)~~
14 ~~or more probation officers, depending on the needs of the court. except~~
15 ~~that two (2) or more divisions within a court, two (2) or more courts~~
16 ~~within a county, or two (2) or more courts not in the same county may~~
17 ~~jointly appoint and employ one (1) or more probation officers for the~~



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purpose of meeting the requirements of this section.

(b) **A joint committee shall appoint one (1) or more probation officers, depending on the needs of the county. The joint committee shall assign probation officers to a particular court.**

~~(b)~~ (c) A person may be appointed as a probation officer after the effective date established by the judicial conference of Indiana only if that person meets the minimum employment qualifications adopted by the conference, except that this requirement does not apply to any person certified as a qualified probation officer before that effective date. Any uncertified person appointed as a probation officer after the effective date who fails to successfully complete the written examination established under section 8 of this chapter within six (6) months after the date of the person's appointment is prohibited from exercising the powers of a probation officer as granted by law.

~~(c)~~ (d) Probation officers shall serve at the pleasure of the **joint committee or** appointing court and are directly responsible to and subject to the orders of the **appointing court or court to which they are assigned by the joint committee.** The amount and time of payment of salaries of probation officers shall be fixed by the county, city, or town fiscal body in accordance with the salary schedule adopted by the county, city, or town fiscal body under IC 36-2-16.5. The salary of a probation officer shall be paid out of the county, city, or town treasury by the county auditor or city controller. Probation officers are entitled to their actual expenses necessarily incurred in the performance of their duties. Probation officers shall give a bond if the court so directs in a sum to be fixed by the court.

~~(d)~~ (e) **An appointing court or two (2) or more courts acting jointly or a joint committee** may designate a probation officer to direct and supervise the work of the probation department.

SECTION 3. IC 11-13-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. Funds appropriated under this program may be made available to ~~any~~ **an appointing court administering probation or joint committee** in order to finance expenditures incurred for either of the following purposes:

(1) Salaries for existing or new probation officer positions.

(2) Maintenance or establishment of administrative support services to probation officers.

SECTION 4. IC 11-13-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) State financial aid for support of probation services may be made only to **appointing courts or a joint committee** meeting the minimum standards adopted by the judicial conference of Indiana and may not exceed fifty percent

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(50%) of the cost of the positions or services being financed. ~~Any A joint committee and appointing court having probation jurisdiction~~ may apply for financial assistance under this chapter by submitting an application to the conference for review. The application shall be accompanied by detailed plans regarding the use of the financial aid.

(b) The conference may recommend changes or modifications necessary to effect compliance with the minimum standards. The conference and the ~~state~~ budget committee must approve all financial aid granted under this chapter. Any **appointing court or joint committee** receiving financial assistance under this chapter may be declared ineligible to receive that assistance if the **appointing court or joint committee** fails to maintain the minimum standards.

~~(c) Two (2) or more courts may jointly apply for financial assistance under this chapter.~~

SECTION 5. IC 11-13-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. At the end of each quarter of the fiscal year, **appointing courts and joint committees** receiving financial aid under this chapter shall submit to the judicial conference of Indiana a verified accounting of all amounts expended in providing probation services. The accounting must designate those items for which reimbursement is claimed, and shall be presented together with a claim for reimbursement. If the accounting and claim are approved by the conference and the state budget agency, the conference shall submit it to the state auditor for payment.

SECTION 6. IC 33-31.5 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 31.5. PROBATION

Chapter 1. Application

Sec. 1. Except as specifically provided in this article, this article does not apply to a county in which only one (1) court is authorized to impose probation.

Sec. 2. Except as specifically provided in this article, this article applies to every county in which more than one (1) court is authorized to impose probation.

Sec. 3. A probation officer in a county to which this article applies may be appointed only in accordance with this article.

Chapter 2. Definitions

Sec. 1. As used in this article, "joint committee" means a joint probation committee established by IC 33-31.5-3-1. The term includes the chair of the committee when the chair is acting on behalf of the committee.

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Chapter 3. Joint Probation Committee

Sec. 1. A joint probation committee is established in every county in which more than one (1) court is authorized to impose probation.

Sec. 2. A joint committee consists of the judge of every court authorized to impose probation in a county. A joint committee may appoint a chair from among the members to act on behalf of the joint committee.

Sec. 3. A joint committee has the sole authority to:

- (1) appoint probation officers in a county;
- (2) assign probation officers to a particular court; and
- (3) remove probation officers.

Sec. 4. A probation officer assigned to a particular court by a joint committee is directly responsible to and subject to the orders of the court to which the probation officer has been assigned.

Sec. 5. A joint committee may appoint a probation officer to direct and supervise the work of the probation department.

Chapter 4. Probation Officer Transition

Sec. 1. (a) Unless the joint committee makes an alternative disposition, a probation officer who comes under the authority of a joint committee in accordance with this article retains the powers and duties that the probation officer possessed before the probation officer came under the authority of the joint committee.

(b) This section does not affect the authority of a joint committee to remove a probation officer or to assign a probation officer to a particular court.

SECTION 7. [EFFECTIVE JULY 1, 2009] (a) This SECTION applies to every county in which more than one (1) court is authorized to impose probation.

(b) Before October 1, 2009, the courts having authority to impose probation in a county in which more than one (1) court is authorized to impose probation shall jointly submit a detailed transition plan to the judicial conference describing how the courts will implement the requirements of IC 33-31.5, as added by this act.

(c) The judicial conference may:

- (1) approve the plan in whole or in part;
- (2) modify the plan; or
- (3) deny the plan in whole or in part.

(d) If the judicial conference denies a plan in whole or in part, the judicial conference may:

- (1) require all or part of the plan to be resubmitted, and

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- 1 **approve or reject the resubmitted plan in whole or in part; or**
- 2 **(2) prescribe a transition plan for the courts.**
- 3 **(e) If the courts in a county do not submit a transition plan by**
- 4 **October 1, 2009, the judicial conference may prescribe a transition**
- 5 **plan for these courts.**
- 6 **(f) This SECTION expires January 2, 2010.**

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